

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

DONNA JOHNS and PAMELA JEAN FRICK,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

ALLURA USA LLC, PLYCEM USA LLC
D/B/A ALLURA, PLYCEM USA, INC.,
ELEMENTIA USA, INC., ELEMENTIA,
S.A.B. DE C.V.,

Defendants.

CASE NO.: 3:18-CV-00669-FDW-DCK

**JOINT MOTION TO EXTEND CASE MANAGEMENT
ORDER DEADLINES**

Plaintiffs Donna Johns and Pamela Jean Frick (“Plaintiffs”) and Defendants Plycem USA LLC d/b/a Allura (“Plycem”) and Elementia USA, Inc. (“Elementia”) (collectively “Defendants”), through their respective counsel, hereby jointly submit this motion for an order to extend the discovery, motion and trial-related deadlines set forth in the Court’s February 13, 2019 Case Management Order. This Motion is made and entered into by the parties in good faith on the following basis:

1. Plaintiff filed a Complaint in Union County Superior Court of North Carolina on November 15, 2018 (the “Complaint”).
2. Defendants removed this action to this Court on December 17, 2018.
3. On January 14, 2019, Defendants served their answer as well as partial motions to dismiss and a motion to compel arbitration.

4. On February 1, 2019, Plaintiffs filed their First Amended Complaint.
5. On February 13, 2019, this Court entered the parties' current Case Management Order [Dkt. 34].
6. On February 15, 2019, Defendants filed renewed motions to dismiss and to compel arbitration, and also an answer as required by the Court's initial scheduling order.
7. On February 18, 2019, Plaintiffs served their First Set of Interrogatories and Requests for Production of Documents to Defendant Plycem .
8. In addition, Plaintiffs began serving subpoenas on builders and suppliers who may have knowledge about the allegations in Plaintiffs' Amended Complaint. Thus far, Plaintiffs have served subpoenas on the following: February 18, 2019- True Homes; March 5, 2019- Beazer Homes and KB Homes; March 11, 2019- Associated Materials LLC, Associated Materials Inc., and Southend Exteriors Inc.; March 27, 2019- Alside Supply, Best Distributing Co., BMC East, LLC, Builders First Source- Atlantic Group, Builders First Source- Raleigh LLC, Builders First Source- Southeast Group, Builders First Source- Texas LP, Capitol City Lumber, GMA Supply Inc., Guy C Lee Building Materials LLC, Guy C Lee Building Materials of Smithfield, and Trinity ERD. To date, only one of the above entities has produced documents responsive to Plaintiffs' requests.

9. On March 22, 2019, Plaintiffs filed their opposition to the pending motions filed by Defendants.

10. In response to Plaintiffs' Discovery requests, Defendants have been gathering documents to produce.

11. Plaintiffs have requested a 30(b)(6) deposition of Plycem, but the 30(b)(6) deposition of Plycem would not be beneficial until Plaintiffs have reviewed a full document

production. Further, with the current deadline for class certification, Plaintiffs do not have the opportunity to take depositions of other potential witnesses.

12. Rule 6(b) of the Federal Rules of Civil Procedure provides that this Court has the discretion to enlarge any time prescribed by the federal rules, local rules, or court order.

13. Here, the Parties seek an extension of the current deadline of April 24, 2019 for Plaintiffs to file their motion for class certification because the parties have not had a chance to fully engage in discovery. In light of the above, the parties request a short extension of six (6) months for the pending deadlines.

14. Therefore, the parties jointly request that:

- a. The deadline for the parties to file any motion for class certification shall be extended from April 24, 2019 to October 24, 2019.
- b. The deadline for expert reports to be submitted by Plaintiffs shall be extended from August 28, 2019 to February 28, 2020. The deadline for expert reports to be submitted by Defendants shall be extended from September 25, 2019 to March 25, 2020.
- c. The deadline for the completion of all discovery shall be extended from November 6, 2019 to May 6, 2020.
- d. The deadline for completing ADR and filing a report on the results shall be extended from November 6, 2019 to May 6, 2020.
- e. The deadline for the parties to file any dispositive motions shall be extended from December 4, 2019 to June 4, 2020 and the deadline for dispositive motions to be heard shall be extended from February 3-14, 2020 to August 2020.

f. The trial shall be continued from the term beginning March 2, 2020 to September 2020.

15. Because this extension of time is sought in good faith and not for any purposes of improper delay, the Parties respectfully request that the Court grant their request for an enlargement of time.

Respectfully submitted, this the 1st day of April, 2019.

WHITFIELD BRYSON & MASON LLP

By: /s/ Scott C. Harris
Scott C. Harris
Attorneys for Plaintiffs

ELLIS & WINTERS LLP

By: /s/ Ashley K. Brathwaite
Ashley K. Brathwaite
Attorneys for Defendants